



House of Representatives

General Assembly

File No. 584

January Session, 2005

Substitute House Bill No. 6851

House of Representatives, April 28, 2005

The Committee on Judiciary reported through REP. LAWLOR of the 99th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING THE DUTIES OF A CONSERVATOR WHO PLACES A WARD IN AN INSTITUTION FOR LONG-TERM CARE.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 45a-656 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2005*):

3 (a) The conservator of the person shall have: (1) The duty and
4 responsibility for the general custody of the respondent; (2) the power
5 to establish his or her place of abode within the state; (3) the power to
6 give consent for his or her medical or other professional care, counsel,
7 treatment or service; (4) the duty to provide for the care, comfort and
8 maintenance of the ward; (5) the duty to take reasonable care of the
9 respondent's personal effects; and (6) the duty to report at least
10 annually to the probate court which appointed the conservator
11 regarding the condition of the respondent. The preceding duties,
12 responsibilities and powers shall be carried out within the limitations
13 of the resources available to the ward, either through [his] the ward's

14 own estate or through private or public assistance.

15 (b) The conservator of the person shall not have the power or
16 authority to cause the respondent to be committed to any institution
17 for the treatment of the mentally ill except under the provisions of
18 sections 17a-75 to 17a-83, inclusive, 17a-456 to 17a-484, inclusive, 17a-
19 495 to 17a-528, inclusive, 17a-540 to 17a-550, inclusive, 17a-560 to 17a-
20 576, inclusive, 17a-615 to 17a-618, inclusive, and 17a-621 to 17a-664,
21 inclusive, and chapter 359.

22 (c) (1) If the conservator of the person determines it is necessary to
23 cause the ward to be placed in an institution for long-term care, the
24 conservator may make such placement after the conservator files a
25 report of such intended placement with the probate court that
26 appointed the conservator, except that if the placement results from
27 the ward's discharge from a hospital or if irreparable injury to the
28 mental or physical health or financial or legal affairs of the ward
29 would result from filing the report before making such placement, the
30 conservator may make the placement before filing the report provided
31 the conservator (A) files the report not later than five days after
32 making such placement, and (B) includes in the report a statement as
33 to the hospital discharge or a description of the irreparable injury that
34 the placement averted.

35 (2) The report shall set forth the basis for the conservator's
36 determination, what community resources have been considered to
37 avoid the placement, and the reasons why the ward's physical, mental
38 and psychosocial needs cannot be met in a less restrictive and more
39 integrated setting. Such community resources include, but are not
40 limited to, resources provided by the area agencies on aging, the
41 Department of Social Services, the Office of Protection and Advocacy
42 for Persons with Disabilities, the Department of Mental Health and
43 Addiction Services, the Department of Mental Retardation, any center
44 for independent living, as defined in section 17b-613, or any
45 congregate or subsidized housing. The conservator shall give notice of
46 the placement and a copy of such report to the ward and any other

47 interested parties as determined by the court.

48 (3) Upon the request of the ward or such interested party, the court
49 shall hold a hearing on the report and placement not later than thirty
50 days after the date of the request. The court may also, in its discretion,
51 hold a hearing on the report and placement in any case where no
52 request is made for a hearing. If the court, after such hearing,
53 determines that the ward's physical, mental and psychosocial needs
54 can be met in a less restrictive and more integrated setting within the
55 limitations of the resources available to the ward, either through the
56 ward's own estate or through private or public assistance, the court
57 shall order that the ward be placed and maintained in such setting.

58 (4) For purposes of this subsection, an "institution for long-term
59 care" means a facility that has been federally certified as a skilled
60 nursing facility or intermediate care facility.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2005	45a-656

JUD *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note**State Impact:**

Agency Affected	Fund-Effect	FY 06 \$	FY 07 \$
Probate Court	PCAF - Cost and Revenue Gain	Minimal	Minimal

Note: PCAF=Probate Court Administration Fund

Municipal Impact: None**Explanation**

The bill will result in an increase in the number of hearings, to place a ward in an institution for long-term care, with the Probate Court. The Probate Court is responsible for sending notices to the parties involved with the hearings, and this will result in a minimal cost to the Probate Court.

When a conservator issues a report, to place a ward in an institution for long-term care, the petitioner must pay a \$150 application fee. The increase in the number of hearings will generate additional minimal revenue to the Probate Court Administration fund.

It is estimated that the Probate Court will have between 25 and 50 hearings annually, related to placing a ward in an institution for long-term care.

OLR Bill Analysis

sHB 6851

AN ACT CONCERNING THE DUTIES OF A CONSERVATOR WHO PLACES A WARD IN AN INSTITUTION FOR LONG-TERM CARE**SUMMARY:**

This bill requires a conservator, prior to placement, to file a report with the probate court that appointed him when he determines it is necessary to place his ward in a long-term care institution (a skilled nursing facility or intermediate care facility).

The bill allows the conservator to place the ward before filing the report upon the ward's discharge from a hospital or if irreparable injury to his mental or physical health or financial or legal affairs would result from filing the report before making the placement. In these circumstances, the bill requires the conservator to (1) file the report within five days after making the placement and (2) include a statement about the hospital discharge or a description of the irreparable injury that placement averted.

The bill requires the report to state:

1. the basis for the conservator's determination;
2. what community resources have been considered, including those offered through area agencies on aging, the Department of Social Services, the Office of Protection and Advocacy for Persons with Disabilities, the Department of Mental Health and Addiction Services, the Department of Mental Retardation, any center for independent living, and congregate or subsidized housing; and
3. the reasons why the ward's physical, mental, and psychosocial needs cannot be met in a less restrictive and more integrated environment.

Under the bill, the conservator must give notice of the placement and a copy of the report to the ward and other interested parties determined by the probate court. At the ward's or an interested party's request,

the court must hold a hearing on the report and placement within 30 days after the request. The bill allows the court to hold such a hearing even though no request is made. If the court then decides that the ward's physical, mental, and psychosocial needs can be met in a less restrictive and more integrated setting within the limits of resources available to the ward, either through his own estate or through private or public assistance, the bill requires the court to order that the ward be placed and maintained in such a setting.

EFFECTIVE DATE: October 1, 2005

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 39 Nay 0